

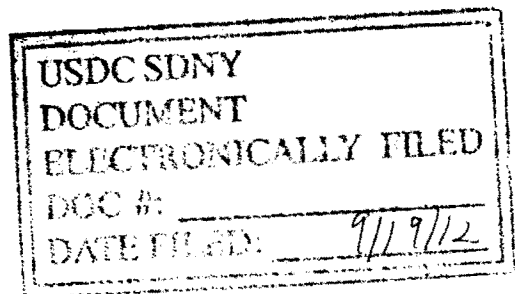
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

In Re: Methyl Tertiary Butyl Ether ("MTBE")
Products Liability Litigation

Master File No. 1:00 – 1898
MDL 1358 (SAS): M21-88

This document relates to:

*New Jersey Department of Environmental Protection v.
Atlantic Richfield Co., et al.*, No. 08 Civ. 00312



SHIRA A. SCHEINDLIN, U.S.D.J.:

[PROPOSED] CASE MANAGEMENT ORDER 106
(EXPERT DISCOVERY PROTOCOL)

With respect to testifying experts in this litigation:

I. The parties shall produce the required expert reliance materials (hereinafter, the "Reliance Materials") no later than five business days after the deadline to serve each relevant expert report pursuant to Case Management Order No. 101 ("CMO-101"). The Reliance Materials to be produced shall include all files, documents, texts and underlying data or manipulations of such data reviewed or relied upon by that expert in forming the basis for his or her opinion, including all computer software programs, models, computer simulations on which the expert's opinions are based, and work papers. Any additional reliance materials generated or first reviewed and relied upon by the expert subsequent to the initial production of reliance materials but prior to the deposition shall be produced promptly and no later than 48 hours before the commencement of the deposition. Reliance materials that are publicly available and have been cited in full by the expert need not be produced absent a specific request.

II. With respect to experts who rely on computer-based modeling, the following illustrate the nature or content of the modeling-related Reliance Materials to be produced:

- A. All electronic executable copies and operating instructions for modeling programs and pre- and post-processor programs that are not public domain models and cannot reasonably be purchased by the requesting party. In all cases, the requesting party shall be responsible for obtaining any necessary licenses.
- B. All reference documents or calculations supporting selection of input parameter values or ranges.
- C. A tabular summary of input data specifying the range of values considered and the ultimate value(s) selected for purposes of calibration, sensitivity analysis, parameter optimization, validation and scenario/hypothesis testing.
- D. A modeling journal (log of model runs) regarding construction, calibration, sensitivity analysis, parameter optimization, validation and scenario/hypothesis testing.
- E. Electronic copies of all modeling files.
- F. Quantification of accuracy (alternatively, uncertainty analysis) regarding model output (groundwater flow and contaminant transport models).
- G. All electronic database files generated in support of the modeling analysis.
- ~~H. All analytical model analyses conducted apart from the numerical model analysis for purposes of parameter selection, parameter optimization, model calibration, hypothesis testing, etc.~~

~~The parties acknowledge that they are obligated to preserve all modeling journals and modeling files (subparts D and E, above) pending the Court's ruling on the motion discussed at the August 16, 2012 status conference, and that the Court's ruling on that motion may affect the scope of the materials that ultimately need to be produced pursuant to subparts D and E, above.~~

III. The deadlines set forth in Section I, above, will not govern the production of demonstrative exhibits to be used at trial as a summary of or support for the opinions to be expressed by an expert. Such demonstrative exhibits shall be produced three business days prior to the day when that expert will testify at trial, or such other time as the Court may order.

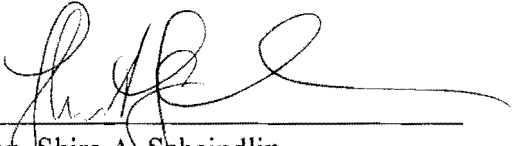
IV. For any witness who may offer any expert opinion testimony but is not required to provide a written report as per FRCP 26(a)(2)(C), the party sponsoring such witness shall disclose (i) the subject matter on which the witness is expected to present evidence under Federal Rule of Evidence 702, 703, or 705; and (ii) a summary of the facts and opinions to which the witness is expected to testify. Such disclosures shall be made no later than 30 days

after the deadlines set forth in CMO-101 for service of reports from the corresponding experts (e.g., plaintiff/defendant, non-site-specific/site-specific, affirmative/rebuttal reports) who are required to provide a written report. The parties shall produce Reliance Materials reviewed by witnesses whose expert opinion disclosures are made pursuant to this paragraph no later than five business days after the subject matter and summary of such witness's testimony is disclosed, as set forth in this paragraph. This Section in no way limits or expands the scope of available discovery of such witnesses in their capacity as percipient witnesses.

V. Nothing in this Protocol may be used by any party to establish the relevance or lack of relevance of any materials or information referenced herein.

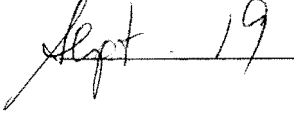
VI. The parties shall meet and confer subsequent to the date of plaintiffs' expert disclosures for the purpose of addressing and formulating a plan for the scheduling, duration, location and other details regarding the proposed depositions of the plaintiffs' designated experts. The parties shall also conduct a comparable meet-and-confer with respect to depositions of defendants' designated experts subsequent to defendants' expert disclosures.

SO ORDERED.



Hon. Shira A. Scheindlin
U.S.D.J.

Dated: New York, New York

 19, 2012

-Appearances-

Liaison Counsel for Defendants:

James A. Pardo, Esq.
Peter John Sacripanti, Esq.
Stephen J. Riccardulli, Esq.
Lisa A. Gerson, Esq.
McDermott Will & Emery LLP
50 Rockefeller Plaza, 11th Floor
New York, New York 10020
(212) 547-5583

Liaison Counsel for Plaintiffs:

Robin Greenwald, Esq.
Robert Gordon, Esq.
Weitz & Luxenberg, P.C.
180 Maiden Lane
New York, New York 10038
(212) 558-5500

**For New Jersey Department of Environmental Protection, the Commissioner
of the New Jersey Department of Environmental Protection, and the
Administrator of the New Jersey Spill Compensation Fund:**

Aaron R. Dias, Esq.
Gordon C. Rhea, Esq.
Richardson, Patrick, Westbrook & Brickman, LLC
1037 Chuck Dawley Boulevard, Building A
Mount Pleasant, South Carolina 29464
(843)-727-6500

Barry A. Knopf, Esq.
Leonard Z. Kaufmann, Esq.
Cohn, Lifland, Pearlman, Herrmann & Knopf, L.L.P.
Park 80 Plaza West One
Saddle Brook, NJ 07663
(201)-845-9600

David T. Ritter, Esq.
Baron & Budd, P.C.
3102 Oak Lawn Avenue, Suite 1100
Dallas, TX 75219
(214) 521-3605

John K. Dema, Esq.
Law Offices of John K. Dema, P.C.
1236 Strand Street, Suite 103
Christiansted, Virgin Islands 00820
(340) 773-6142

Tyler E. Wren, Esq.
Berger & Montague, P.C.
1622 Locust Street
Philadelphia, PA 19102
(215) 875-3098

For Getty Petroleum Marketing Inc. and Lukoil America Corp.:

Matthew Gerard Parisi, Esq.
Bleakley Platt & Schmidt, LLP
One North Lexington Avenue
White Plains, New York 10601
(914) 287-6184

For Amerada Hess Corp., Marathon Oil Co., and Marathon Petroleum Co. LP:

Steven Lawrence Leifer, Esq.
Baker Botts LLP
1299 Pennsylvania Avenue, N.W.
Washington, DC 20004
(202) 639-7723

For George E. Warren Corp.:

Ira Brad Matetsky, Esq.
Steven J. Shore, Esq.
Ganfer & Shore, LLP
360 Lexington Avenue, 14th Floor
New York, New York 10017
(212) 922-9250

For Sunoco, Inc. and Sunoco, Inc. (R&M):

Patrick R. Jacobi, Esq.
Beveridge & Diamond, P.C.
1350 I Street, N.W.
Suite 700
Washington, DC 20005
(202) 789-6064

For Getty Properties Corp.:

John Christie II McMeekin, Esq.
Rawle & Henderson, LLP
The Widener Building
One South Penn Square
Philadelphia, Pennsylvania 19107
(215) 575-4324

For Gulf Oil Limited Partnership:

Anthony A. Orlandi, Esq.
Brian J. Sullivan, Esq.
Goodwin Procter, LLP
53 State Street, Exchange Place
Boston, Massachusetts 02109
(617) 570-1639

Yaniv Heled, Esq.
Goodwin Procter, LLP
The New York Times Building
620 Eighth Avenue
New York, New York 10018
(212) 459-7103

For Third-Party Defendant/Cross-Claimant Robert Melecci:

James D. Bride, Esq.
Leary Bride Tinker & Moran
7 Ridgedale Avenue
Cedar Knolls, NJ 07927
(973) 539-2090

For Third-Party Defendant/Cross-Claimant Dhandi Transport, Inc.:

Kevin T. Bright, Esq.
Jeff Imeri, Esq.
Lila T. Wynne, Esq.
Marshall Dennehey Warner Coleman & Goggin
200 Lake Drive East
Cherry Hill, NJ 08002
(856)-414-6057

For Third-Party Defendant/Cross-Claimant H.P. Delta, Inc.:

Stuart J. Lieberman, Esq.
Lieberman & Blecher, P.C.
10 Jefferson Plaza
Suite 100
Princeton, NJ 08540